

INSTRUCTIONS FOR REQUESTING A DOMESTIC VIOLENCE PROTECTIVE ORDER

To get a protective order, you must fill out a Petition form (DV-100), explaining to the court what has happened and what kind of protection you need. A court clerk can help you fill out the form. There is no fee for filing such a petition.

A request for a protective order is a civil matter, not a criminal matter. In a protective order, a judge or magistrate can tell the person who is abusing you to stop the abusive behavior and stay away from you.

Petition Form

Print clearly, using black ink.

On the "AT" line at the top of the form, write the name of the city where you are filing your case.

Write your name on the line for "Petitioner" and fill in your date of birth. On the "Respondent" line, write the name of the person you want the order against. Write his/her date of birth in the space provided.

Leave the "CASE NO." line blank.

1. Which Type of Order To Request.
 - a. 20 Day. Check the first box if you want an immediate 20-day "ex parte"¹ order. An ex parte order is an order the court can grant without first giving the respondent notice of your request and an opportunity to contest it. An ex parte order will be effective for 20 days unless the court dissolves or modifies it sooner. If you check the first box, you must also check one of the two boxes indented after it, explaining any efforts you have made to notify the respondent that you are requesting a protective order.
 - b. Long Term. Check the second box if you want a long-term protective order. A long-term order can only be granted after the respondent is given notice of your request and an opportunity to contest it at a court hearing. The respondent must receive notice of the hearing at least 10 days before the hearing. Most provisions in a long-term order will last for one year. However, the requirement that the respondent not commit domestic violence will last indefinitely, until the court terminates it.
 - c. Both. If you want both the immediate protection of a 20-day order and the longer term protection of a long-term order, check both boxes.

¹ "Ex parte" is a Latin expression, meaning from one side only of a dispute, without notice to the other party.

2. Relationship To Respondent.

In section 2, check all the boxes that describe your relationship to the respondent. To get a protective order, the person you name as respondent must be a "household member" as defined in Alaska Statute 18.66.990(5). As you can see from the form and from the copy of this statute on page 7, this term includes a wide variety of relationships.

3. Children in Household.

Check the "yes" box in section 3 if any children live with you, whether they are yours or not.

4. Description of What Happened To You.

In section 4, describe what the respondent did to you and when and where it happened. To get a protective order, you must give the court enough information to show that the respondent has committed "a crime involving domestic violence." (That term is defined in AS 18.66.990(3) on page 7.)

To qualify as a domestic violence crime, a crime must be:

- a. committed or attempted
- b. by one household member against another household member (see paragraph 2 above about the meaning of "household member"), and
- c. be one of the Alaska crimes listed in the above statute or a violation of a law or ordinance of another jurisdiction (another state, city, etc.) having similar elements.

The following are some examples of the crimes that qualify:

- Assault and reckless endangerment (physical injury, threats of injury, or acting in a way to create the risk of harm)
- Kidnapping (taking/holding a person against his/her will)
- Custodial interference (taking or holding a child or incompetent person without legal right)
- Sexual offenses (rape, forced contact, abuse of minor, etc.)
- Criminal trespass or mischief (entering or staying in a location or residence where the person has no right to be, or harming property of another without right)
- Burglary (breaking in and committing a crime)
- Harassment (threatening or repeated or abusive phone calls)
- Stalking

When you are describing what happened, be as direct as possible. The court needs a clear picture of the event that brought you to court today as well as any times in the past when the respondent has hurt you, your children, or your property.

For example, you might write the following:

"On July 7th in the late afternoon, John came into the kitchen, grabbed my arms and pulled me into the living room. He shoved me onto the couch. He called me a bitch and started to hit me. He used his closed fists and hit me in the eye and the mouth. My four year old daughter was in the room and yelled at him to stop. He did not have a weapon."

5. Other Instances.

You can use this space to let the judge know about other times the respondent has committed domestic violence against you or against other people (for example, previous relationships you may know about in which the respondent was violent).

6. Things To Request.

In section 6, check the boxes and fill in the blanks for all the provisions you want the judge to include in your protective order. The items in section 6 can be included in both a 20-day ex parte order and a long-term order.

In paragraph b. in the space for "exceptions," you can list any types of communication you want to permit. For example: letters, telephone calls to discuss particular subjects (like medical care for a child), contacts through a third party. If you need more space for this, or any other paragraph, you can attach additional pages.

In paragraph d. in the space for "exceptions," you can list situations in which it is all right for the respondent to go to or contact the places you have listed above.

In paragraph f., if you check the "essential personal items" box, you may want to list any particularly important items you want to be sure you can get. If you are leaving your home, think about the things you may need for yourself or your children. For example: legal documents, birth certificates, medical records, your driver's license, insurance information, checkbook, bank account information, medication.

7. Additional Requests.

The items in section 7 can only be included in a long-term order, not an ex parte order. Check the ones you want.

8. Children.

If you want the court to grant you temporary physical custody of any children while the protective order is in effect, check the box at the beginning of section 8.

In subsection (a) list the children and fill in the other information about them. Most of this information is necessary in order for the court to be sure it has jurisdiction over the children (and the power to decide their custody).

Subsection (b) is about visitation. The court may allow the respondent to have visitation with the children while you have custody of them, but only if your safety and the safety of the children can be protected. If you have concerns about this, describe your concerns in subsection (b). If the court allows visitation, the court can specify the conditions under which the visitation will take place. For example, the court can specify where it will take place, whether it must be supervised by someone, whether overnight visitation will be allowed, etc. A statute which gives some examples of visitation conditions which the court can set is on pages 8, AS 25.20.061.

Subsection (c) is about child support. The information in this section will be enough to allow the court to include child support in the 20-day ex parte order. However, it will not be enough for a long-term order. To get a one-year child support order, you will need to fill out form DV-101, Child Support Information, and bring it to the court hearing on the long-term order or file it with the court before that hearing. The respondent will also have to fill out a DV-101 form.

9. Other Cases.

a. The statutes require you to list any pending (meaning still open) court cases in the following two categories in which either you or the respondent is involved:

- (1) civil cases (for example: divorces, dissolutions, child custody cases, etc.), and
- (2) domestic violence criminal cases. (A criminal case is a case brought against a person by a government (local, state or federal) charging the person with a crime. See the list of "domestic violence crimes" in AS 18.66.990(3) on page 7 and the discussion of this in section 4 on page 2.)

b. If there are other court cases in which the respondent is or has been involved which you want the court to know about (for example, previous criminal charges or convictions), you can list them in subsection b.

10. Respondent's Information.

Fill in as much of this information about the respondent as you know. The court needs the respondent's mailing address and telephone numbers so the court can send paperwork to him/her and notify him/her about hearings.

11. Petitioner's Information.

If possible, you need to fill in an address where the court can send paperwork to you. **Do not fill in the actual physical address where you are staying if you think it might be dangerous for the respondent to know where you are.** Instead, give a message address (for example, a friend's address) where you can be sure you will quickly receive any papers the court sends to you.

The court also needs a phone number where you can be reached or where messages can be left for you. List a number it is all right for the respondent to know (since the respondent will get a copy of your petition).

If there is no phone number or address that can safely be revealed to the respondent, ask the clerk how you can provide the information so that it will be kept confidential and not revealed to the respondent.

Signature Section.

Your signature on the Petition must be notarized because you are making the statements in it under oath. The court clerk will notarize it for you at no charge.

Other Paperwork

You must fill out the following two forms so the court's order and other paperwork can be served on (delivered to) the respondent by a peace officer:

DV-125, Request For Service of Domestic Violence Documents

Fill in your name and the respondent's name. The clerk will fill in the rest.

DV-127, Law Enforcement Information Sheet

Fill in everything on this form. This is a confidential document which will be given to the police to help them serve court orders on the respondent and then enforce those orders. Pursuant to Civil Rule 65.1, access to this form will be limited to the petitioner and court personnel.

The police need this information in order to find the respondent and in order to be as safe as possible when they contact the respondent. So, please provide as much information as you can on this form. If the police cannot locate the respondent, they cannot serve the order.

The police also need to be able to contact you.

The Alaska State Troopers will not serve the order outside Alaska, nor will they send it to an outside police agency for service. If you want the order served on the respondent outside Alaska, you can call State Trooper Judicial Services in Anchorage at (907) 264-0699 and ask for the name, address and any fees charged by a peace officer in the area in which the respondent is located. You can then send two certified copies of the order with any fees for service to the officer in the other state.

Court Hearings

The court will notify you of any hearings it schedules in your case. You may ask the court to allow you to participate in the hearings by telephone rather than in person (for example, if you do not want to be in the same room with the respondent).

Modification and Dismissal

After the court issues the protective order, if you decide some parts of the order are too burdensome, you can ask the court to change (modify) the order. For example, if you want to increase the types of communication allowed, you do not need to ask the court to dissolve the order; you can just ask that the communication provisions be modified.

Alternatively, if you find that you need additional orders to protect you or your children, you can ask the court to add such orders.

Use form DV-135, Request to Modify or Dissolve Protective Order (available at the clerk's office).

To decide most of these requests, the court will be required to hold a hearing at which both you and the respondent must be given an opportunity to appear and participate.

Alaska Statutes

The following are the Alaska Statutes referred to previously in these instructions.

AS 18.66.990. DEFINITIONS

- (3) "domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:
- (A) a crime against the person under AS 11.41;
 - (B) burglary under AS 11.46.300 - 11.46.310;
 - (C) criminal trespass under AS 11.46.320 - 11.46.330;
 - (D) arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
 - (E) criminal mischief under AS 11.46.475 - 11.46.486;
 - (F) terroristic threatening under AS 11.56.807 or 11.56.810;
 - (G) violating a protective order under AS 11.56.740(a)(1); or
 - (H) harassment under AS 11.61.120(a)(2) - (4);
- (5) "household member" includes
- (A) adults or minors who are current or former spouses;
 - (B) adults or minors who live together or who have lived together;
 - (C) adults or minors who are dating or who have dated;
 - (D) adults or minors who are engaged in or who have engaged in a sexual relationship;
 - (E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
 - (F) adults or minors who are related or formerly related by marriage;
 - (G) persons who have a child of the relationship; and
 - (H) minor children of a person in a relationship that is described in (A) - (G) of this paragraph;

Sec. 25.20.061. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC VIOLENCE.

If visitation is awarded to a parent who has committed a crime involving domestic violence, against the other parent or a child of the two parents, within the five years preceding the award of visitation, the court may set conditions for the visitation, including

- (1) the transfer of the child for visitation must occur in a protected setting;
- (2) visitation shall be supervised by another person or agency and under specified conditions as ordered by the court;
- (3) the perpetrator shall attend and complete, to the satisfaction of the court, a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under AS 44.28.020(b), or other counseling; the perpetrator shall be required to pay the costs of the program or other counseling;
- (4) the perpetrator shall abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours before visitation;
- (5) the perpetrator shall pay costs of supervised visitation as set by the court;
- (6) the prohibition of overnight visitation;
- (7) the perpetrator shall post a bond to the court for the return and safety of the child; and
- (8) any other condition necessary for the safety of the child, the other parent, or other household member.